

In order for a Certificate of Resale to be valid in Illinois, it must contain the information set out in 86 Ill. Adm. Code 130.1405(b) (This is a GIL).

September 17, 2002

Dear Xxxxx:

This letter is in response to your letter dated June 12, 2002. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be accessed at the Department's Website at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

We have reviewed Illinois Department of Revenue Publication 104, entitled Common Sales Tax Exemptions, with particular attention to the section 'Sale for Resale'. In essence, this document says that if we, as the retailer, have a properly completed Form CRT-61, Certificate of Resale from our customers, we have fulfilled our responsibility and may proceed to sell to those customers on a tax exempt basis.

Further, we interpret this section of Publication 104 to mean that in a subsequent audit by your department, we the retailer will not be held liable for tax due if the customer completed Form CRT-61 with erroneous information, whether intentionally or unintentionally.

Yet we were advised verbally, by Illinois Department of Revenue personnel, that we the retailer 'should check the validity of the data on Form CRT-61 by calling your department'. Publication 104 does not mention a requirement for calling the Illinois Department of Revenue to verify the representations our customers make on CRT-61.

Should we consider Publication 104 as your department's official requirement? Or, is there a more comprehensive regulation we should follow? We could not locate referenced '86 Illinois Administrative Code 130.1405' on the internet.

While we certainly intend to fulfill our responsibilities in billing and collecting Illinois sales tax, a requirement to call and verify the representations of every customer in our database, plus every new customer presenting an apparently valid CRT-61, would require significant changes in administration of our business. However, if verbal confirmation is required to avoid potential future audit liability for misrepresentations by others on CRT-61 forms, we certainly wish to follow the rules. But at this point, we have inconsistent 'written versus verbal' directions in this matter.

Can you please provide written clarification of specific legal responsibilities of retailers related to exemptions from Illinois sales tax of items for resale? We will appreciate your guidance.

To purchase items of tangible personal property tax free for the purpose of resale, purchasers must submit properly completed Certificates of Resale to sellers. In order for a Certificate of Resale to be valid in Illinois, it must contain the items of information set out in 86 Ill. Adm. Code 130.1405(b), enclosed.

Retailers generally are not required to verify that their purchasers resell the product and may accept a Certificate of Resale that complies with Section 130.1405. However, sellers do have an obligation to exercise good faith when accepting Certificates of Resale from purchasers.

Illinois Tax Acts contain requirements designed to prevent businesses that are not registered with the Department from purchasing tangible personal property tax-free. The registration or resale number issued by the Department is a mechanism that enables a seller to ascertain that his customer is properly registered with the Department. This mechanism ensures that tax due on retail sales will be subsequently paid. If a seller fails to ensure that the purchaser is properly registered with the Department, the Department can look to the seller for the tax. See Tri-American Oil Company v Department of Revenue, (1984), 102 Ill. 2d 234, 238.

If a retailer has a question about the validity of a registration or resale number that is submitted to it on a Certificate of Resale, it can inquire about the number by calling the Department's Central Registration Office at (217) 785-3707. It has been held proper for the Department to disallow Certificates of Resale that contain inaccurate information in the form of inactive or discontinued registration numbers. See Rock Island Tobacco v Department of Revenue (1980), 87 Ill. App. 3d 476, 478.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Karl W. Betz
Associate Counsel

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